



Appeal Decision

Site Visit made on 14 January 2021

by A M Nilsson BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2021

Appeal Ref: APP/G2713/W/20/3260334

Blue Barn Lane, Rudby TS15 0JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by ELG Planning against the decision of Hambleton District Council.
 - The application Ref 20/01349/OUT, dated 25 June 2020, was refused by notice dated 13 August 2020.
 - The development proposed is the erection of 2no. dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application was in outline with all matters reserved. A plan has been submitted as part of the appeal which indicates how two dwellings could be accommodated on the site. I have taken this plan into account for indicative purposes only.

Main Issues

3. The main issues are 1) the effect of the proposed development on the character and appearance of the area and 2) whether the development would be exposed to risk from the nearby Trans Pennine Ethylene Pipeline.

Reasons

Character and appearance

4. The appeal site comprises a triangular shaped piece of land on the northern side of Blue Barn Lane. The site shares a boundary with the adjacent detached two-storey property and faces existing detached bungalows that are located on the opposite side of Blue Barn Lane. The northern boundary is shared with open agricultural fields.
5. Notwithstanding the agricultural fields, the area surrounding the appeal site is predominantly made up of detached residential properties set within large plots. This is particularly noticeable in the two properties immediately to the east of the appeal site that are also on the northern side of Blue Barn Lane.
6. The layout of the development is not before me in this appeal; however, the appellant has submitted an indicative plan showing how two dwellings could be accommodated on the site. As the plan is indicative, it has limited weight in the appeal, however I consider that it does serve to demonstrate the impact that the western section of the site, where it comes to a point, has on any future development.

7. The appeal site is fundamentally rural in character being located on the edge of the settlement. I find that the appeal proposal would fail to reflect the dominant characteristic of the properties in the area, particularly on the northern side of Blue Barn Lane, that being detached properties in large grounds with a semblance of spaciousness.
8. Although, as the appellant refers to, it appears possible to develop the site with similar plot sizes to some of the properties in the surrounding area, these are somewhat in the minority, with only one of those referenced, 2 Greenlands, being similar in shape to that which has been indicated. These other properties also form the appearance of part of a homogenous estate, unlike the dwellings adjacent to the appeal site which appear to have evolved in isolation with an emphasis on being detached and contained within large grounds.
9. The suggestion of replicating the form of development to which the appellant alludes, would in my view result in a cramped form of development that would appear incongruous and out of character. Therefore, whilst I acknowledge the existence of smaller plots in the area, they do not justify allowing the harm I have identified.
10. I do not consider that the harm I have identified could be overcome by imposing a planning condition to limit the size of the dwellings to 1.5 storeys, as I have found harm caused by matters other than the future height of the dwellings.
11. The appeal site has an extant outline planning permission for one dwelling. Although this represents a fallback capable of being given significant weight, it is fundamentally a different form of development, that is, one dwelling as opposed to two. I acknowledge that, like in this appeal, the layout of that planning permission was a reserved matter, however, there is no evidence before me to suggest that the appeal proposal is comparable, or that would lead me to conclude that two dwellings can be accommodated on the site without causing harm.
12. I therefore conclude that the proposed development would introduce a cramped form of development that would appear incongruous, out of keeping with, and harmful to, the character and appearance of the area. It would be contrary to Policies DP10, DP30 and DP32 of the Hambleton Local Development Framework Development Policies Document (2008). These policies promote high quality development that takes into account local character, including amongst other things, a requirement to have regard to plot patterns, street layouts and to respect and enhance the local context.
13. The proposal would also be contrary to the Council's adopted Interim Policy Guidance (2015) (IPG) which sets out the approach to housing development proposed outside development limits. The IPG requires, amongst other things, that development must reflect the existing built form and character of the village, should have no detrimental impact on the open character and appearance of the surrounding countryside. Whilst the IPG does not have the same status as the development plan, the guidance is consistent with the National Planning Policy Framework (the Framework) and can be given significant weight. In considering the character of the settlement, the IPG outlines that consideration should be given to the built form of a settlement.

Health and safety

14. The Council outline that the appeal site is within 9.5m of the Trans Pennine Ethylene Pipeline (TPEP). It is located within the 'Inner Zone' where consultation with the Health and Safety Executive (HSE) on development proposals such as this is required. The consultation process does not involve receipt of a site specific or development specific response directly from the HSE. Alternatively, it involves use of the HSE's online consultation program, which in this instance returned 'no objection' to the development. The Council outlines how further contact was made with the HSE who confirmed they did not advise against the development but that the cumulative impact of development is for the decision maker to consider having regard to the relevant Planning Practice Guidance (PPG).
15. The Hazardous Substances PPG outlines that local planning authorities are well placed to judge the extent of development around major hazard establishments and major accident hazard pipelines so, when considering public safety in planning decisions they should take account of the total number of people that are present in the consultation zones around these sites, and the implications of any increase as a result of a planning decision. In the case of encroachment (development getting closer to the major hazard) the risks can increase as well as the number of people.
16. In considering cumulative impacts, the PPG outlines that cumulative development may not always be obvious particularly in the case of infill and densification. Such cumulative development, by whatever means, leads to a rise in population within the consultation zone and a proportionate increase in the consequence should a major accident occur.
17. It is presented to me that the construction of two dwellings at this site would result in a total of four dwellings within the inner zone in this location and that if an application for four dwellings were submitted and put through the HSE online consultation program the resulting advice would be advise against development.
18. It is without doubt that the proposed development, would increase the number of people within the consultation zone, and it is almost inevitable that there would be more people within the consultation zone as a result of the appeal proposal as opposed to the extant consent for one dwelling, even if on both accounts the increase is a low number. There is also an outstanding objection to the proposal from SABIC who are responsible for the pipeline.
19. Given that the development would increase the number of people within the consultation zone, when combined with the outstanding objection from the pipeline operator, I am not in a position to conclude in favour of the proposal on this matter. I accept that there would be likely to be a relatively low increase in the number of people within the consultation zone above that which may occur through the implementation of the extant planning permission, however this does not justify increasing the risk. Similarly, the fact that the Council sought to grant outline planning permission for one dwelling within the consultation zone, by either not considering there was a cumulative impact, or were satisfied with the risk, does not justify in this case, increasing the risk, without substantive evidence to the contrary.

20. I give limited weight to the appellants argument that more people may reside in one large dwelling than two smaller dwellings as such factors are outside of planning control, as opposed to the number of units. Additionally, the fact that appropriate accesses that can be used in the event of an incident may exist in future do not override the concerns I have identified above.
21. That the Council may have been inconsistent in their approach when considering the previous planning application does not depart from the fact that there would inevitably be a greater number of people residing within the consultation zone, or that there is an outstanding objection from the pipeline operator.
22. The appellant considers that the outstanding objection from the pipeline operator is akin to a 'holding' objection. Be that as it may, I have determined the appeal on the basis of the evidence before me.
23. I therefore conclude that, without substantive evidence to the contrary, the proposed development would be exposed to risk from the nearby TPEP, and as a result would be contrary to Policy CP21 of the Hambleton Local Development Framework Core Strategy (2007) which states, amongst other things, that proposals must take particular account of the need to mitigate development from the consequences of hazardous activities.

Other Matters

24. I am in receipt of comments stating that I should rescind the earlier outline approval of a single house on the site on the basis of the health and safety implications due to the proximity of the proposed dwelling to the TPEP. This is not within my power or within the confines of this planning appeal.

Conclusion

25. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR